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December 22, 2009

By e-filing & by UPS overnight mail
(original + 10 copies & \$250 filing fee)

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

ENTERED
Office of Proceedings

DEC 22 2009

Part of
Public Record

Re: Docket No. AB-6 (Sub-No. 468X), *BNSF Railway Company -- Abandonment
Exemption -- in Kootenai County, ID*

Dear Section of Administration Chief:

Pan-American Railway, Inc., d.b.a. Post Falls-Coeur d'Alene Railroad (PFCA), hereby petitions for a stay of the December 27, 2009 effective date of an exemption from 49 U.S.C. § 10903 for abandonment by BNSF Railway Company (BNSF) of a 6.23-mile rail line between Milepost 6.10 near Post Falls and Milepost 12.33 at Coeur d'Alene, in Kootenai County, Idaho (the rail line). That exemption was granted in a Board decision served on November 27, 2009.

A stay is sought pending receipt by PFCA of valuation information under 49 C.F.R. §§ 1152.27(a)(3) and (c), which information is hereby requested of BNSF by copy of this Petition, and pending a reasonable opportunity for PFCA to file an Offer of Financial Assistance (OFA) after review of such information.

A copy of this Petition is being served expeditiously on counsel for BNSF, counsel for the City of Coeur d'Alene, counsel for Stimson Lumber Company, and counsel for North Idaho College Foundation.

In view of the imminent effectiveness of the exemption, this Petition for Stay is being filed electronically. The required filing fee is being sent by overnight mail along with the original and ten copies of this Petition.

THOMAS F. MCFARLAND
Chief, Section of Administration
December 22, 2009
Page 2

BACKGROUND

On August 10, 2009, BNSF filed a Petition for Exemption for abandonment of the rail line. As here pertinent, BNSF's Petition also sought an exemption from the OFA provisions of 49 U.S.C. § 10904.

On September 17, 2009, PFCA filed a Reply in Opposition to the Petition for Exemption from 49 U.S.C. § 10904. PFCA did not oppose the other exemptions sought by BNSF in that Petition.

In a decision served November 27, 2009, the Board granted the sought exemption from 49 U.S.C. § 10903, but denied the requested exemption from 49 U.S.C. § 10904. It was provided in that decision that OFAs could be filed by December 7, 2009 and that in the absence of filing of an OFA, the exemption for abandonment would be effective on December 27, 2009.

JUSTIFICATION FOR STAY

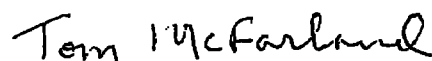
Because an exemption from 49 U.S.C. § 10904 had been sought in BNSF's August 10, 2009 Petition, there was no occasion for PFCA to have filed a request for valuation information under 49 C.F.R. §§ 1152.27(a)(3) and (c) for the line prior to the Board's decision served November 27, 2009 that denied BNSF's request for exemption as to that statute.

Due to a miscommunication between PFCA and its counsel, a request for valuation information under 49 C.F.R. §§ 1152.27(a)(3) and (c) was not filed prior to the date for filing OFAs.

In the particular circumstances here, where the opportunity to file an OFA was not established until November 27, 2009, the Board should interpret 49 C.F.R. §§ 1152.27(a)(3) and (c) liberally to permit PFCA to obtain valuation information for the line after the due date for OFAs, staying the abandonment exemption and retroactively extending the OFA filing date correspondingly.

WHEREFORE, the effective date of the exemption for abandonment should be stayed pending receipt by PFCA of valuation information for the line hereby requested of BNSF, and pending a reasonable opportunity for PFCA to file an OFA after review of such information.

Respectfully submitted,



Thomas F. McFarland
*Attorney for Pan American Railway, Inc.,
d.b.a. Post Falls-Coeur d'Alene Railroad*

THOMAS F. MCFARLAND
Chief, Section of Administration
December 22, 2009
Page 3

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2009, I served the foregoing document on the following:

(by UPS overnight mail)

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